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### FINDLAW DAILY OPINION SUMMARIES U.S. 1ST CIRCUIT COURT OF APPEALS

#### CRIMINAL LAW & PROCEDURE, HABEAS CORPUS, EVIDENCE

##### **Wilkins v. US, No. 13-1637**

The district court's denial of petitioner's motion to set aside his drug distribution conviction, filed after a revelation that a chemist at a state testing laboratory had falsely certified drug-test results, is affirmed, where the chemist's misconduct was not likely to have influenced the petitioner's decision to enter a guilty plea.

#### CIVIL PROCEDURE, INJURY & TORT LAW

##### **Abdallah v. Bain Capital, LLC, No. 13-2008**

In a putative class action seeking to hold defendant liable, under theories of tortious interference with employment arrangements, fraud, negligent misrepresentation, and unjust enrichment, for losses suffered by a factory's workers as a result of the sale and liquidation of the factory, which plaintiff claims defendant orchestrated, the district court properly dismissed the action, where: 1) five years passed between the liquidation of the factory and the commencement of this action; 2) the action is time-barred under the applicable three-year limitations period; and 3) plaintiff is not entitled to equitable tolling of the statutory limitations period.

#### CRIMINAL LAW & PROCEDURE, SENTENCING

##### **US v. Sevilla-Oyola, No. 12-1264**

The initial sentence of 327 months plus a consecutive term of life imprisonment imposed on defendant following his guilty plea is affirmed, where: 1) the district judge lacked statutory authority to act after he entered the original sentence and the initial plea colloquy was flawed; but 2) the errors cited by defendant do not justify setting aside the first judgment; and 3) the first sentence was reasonable.

#### CORPORATION & ENTERPRISE LAW, INTERNATIONAL LAW, TAX LAW

##### **OMJ Pharmaceuticals, Inc. v. US, No. 13-1008**

Summary judgment in favor of the government rejecting plaintiff's claim for a tax refund is reversed and remanded, where: 1) plaintiff, a U.S. tax payer, sold a line of business in Puerto Rico to a foreign corporation that does not pay U.S. corporate income taxes; 2) a reduction in a seller's tax credit cap as a result of the sale of a business line is appropriate only in the event of a corresponding increase in the buyer's cap; and 3) since there is no claim that the transaction at issue in this case increased or could have increased any credit

cap attributed to plaintiff or its subsidiaries, the transfers did not reduce plaintiff's credit cap.